of the original land by this trustee. *Dorsey v. Wolcott* (1898) 173 Ill. 539; *Taylor v. Kelly* (1857) 3 Jones (N. C. Eq.) 240; cf. *Huxley v. Rice* (1879) 40 Mich. 73; *Kinney v. Keplinger* (1899) 89 Ill. App. 570.

A. S. B.

INTERNATIONAL LAW—JURISDICTION OF THE UNITED STATES COURTS IN THE APPAM CASE.—THE APPAM (MARCH 6, 1917) U. S. SUP. CT., OCT. TERM, 1916, NOS. 650 AND 722.—The Appam, an English vessel, captured by a German raider, came into the port of Hampton Roads, an unconvoyed prize, for purposes of permanent internment rather than seeking to secure a temporary asylum. *Held,* that restitution of the vessel would be made to the English owners.

For a discussion of the principles involved in this case in accord with the decision of the U. S. Supreme Court, see comment (1916) 26 YALE LAW JOURNAL, 148.

G. S., JR.

MARRIAGE—FRAUD—ANNULMENT ON GROUND OF REFUSAL TO COHABIT.—SAMUELS V. SAMUELS (1917) 56 N. Y. L. J. 2052.—The husband brought an action for the annulment of a marriage on the ground of fraud by the wife in entering into the marriage contract. The plaintiff alleged and proved that the respondent had a preconceived intention not to permit marital intercourse; that she had carried out her intention, and that the marriage, in consequence, had not been consummated. *Held,* that the marriage would be annulled for fraud.

The decision in the principal case is the first of its kind in the state of New York, although there are dicta to the same effect in several cases in that state. For a discussion of earlier American cases in which the same conclusion was reached on a similar statement of facts, see *Anders v. Anders* (1916) 113 N. E. (Mass.) 203 in (1916) 26 YALE LAW JOURNAL, 159.

B. L.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT—EXCLUSIVE CHARACTER.—SHANAHAN V. MONARCH ENGINEERING CO. (1916) 114 N. E. (N. Y.) 795.—The constitution of New York, Art. I, sec. 18, declares that the right to recover damages for injuries resulting in death shall never be abrogated. Sec. 19, added in 1913, says that nothing in the constitution shall limit the power of the legislature to enact laws for the protection of employees and for compensation for injuries and death, and that the legislature may make these rights and remedies exclusive. The Code of Civil Procedure, sec. 1902, provides an action for wrongful death for the benefit, among others, of brothers and sisters. The Workmen's Compensation Act (Consol. Laws, chap. 67) provides that every subscribing employer shall pay compensation according to the schedules stated, and that as to such employers this liability shall be exclusive. Provision is then made for dependent parents, wives, husbands, and

children under eighteen. *Held,* that the Workmen's Compensation Law was exclusive, and adult brothers and sisters could not recover under the Code of Civil Procedure. Bartlett, C. J., and Chase, J., *dissenting.*

The legislature may make the recovery under the Workmen's Compensation Law exclusive and deny a recovery on all other actions. Alien dependents were unable to recover under an act limiting compensation to residents of the United States, although they would have had a good cause of action at common law. *Gregutis v. Waclark Wire Works* (1914) 86 N. J. L. 610. An act, reciting the weaknesses of the common law in actions by employees against employers and withdrawing all phases of the premises from private controversy and making the employer liable without negligence, removed the rights of the employee against third parties. *Peet v. Mills* (1913) 76 Wash. 437. But this doctrine has been repudiated by the federal courts. *Meese v. Northern Pac. Ry. Co.* (1914) 211 Fed. 254, reversing 206 Fed. 222. The cases may possibly be reconciled on the ground that the action was against an officer of the employing corporation, and consequently not against a third party. A statute declaring that if the employee accepts compensation under this act, such action shall constitute a release to the employer of all claims or demands at law, does not prevent the mother from suing the employer at common law for the loss of the son's services. *King v. Viscoloid Co.* (1914) 219 Mass. 420. In New York the courts have already begun to restrict the force of the word "exclusive." They have held that this clause applies only to employers and does not prevent an action against third parties. *Lester v. Otis Elevator Co.* (1915) 153 N. Y. S. 1058. They have also held that the term "exclusive" does not apply to schedules not covered by the act and that the right to recover for an injury to an ear, an injury not covered by the schedules, remained as it was at common law. *Shenneck v. Clover Farms Co.* (1915) 154 N. Y. S. 423. The lower courts of New York, whose reasoning the dissenting judges adopt in the principal case, would extend this doctrine one step farther. They maintain that the legislature intended the remedies in the Workmen's Compensation Act to be exclusive only as regards those who were there provided for and that there was no intention to remove any common-law remedy without substituting another, so that the plaintiff might maintain an action under the Code of Civil Procedure. The majority adopt a stricter construction, declaring the language of the act to be clear, and that if any injustice is caused thereby, the remedy is by an amendment by the legislature and not by a strained construction of the act.

J. E. H.

MASTER AND SERVANT—WORKMEN'S COMPENSATION ACT—INJURY ARISING OUT OF EMPLOYMENT.—FOLEY V. HOME RUBBER CO. (1917) 99 ATL. (N. J.) 624.—The plaintiff's husband, a traveling salesman, with the knowledge of defendant, his employer, engaged passage on the Lusitania on a visit to the London office of defendant company. On the voyage the steamer was destroyed by a submarine. *Held,* that this was an accident "arising out of the employment," for which the plaintiff was entitled to